

01/04/2011 TUE 10:17 FAX 573 756 5414 Great Mines Healthcenter

002/010

Rec'd 1-3-11



IN THE 24TH JUDICIAL CIRCUIT COURT, ST. FRANCOIS COUNTY, MISSOURI

Judge or Division:	Case Number: 10SF-CC00272
Plaintiff/Petitioner: LISA MEICHELLE RAWSON, ET AL	Plaintiff's/Petitioner's Attorney/Address ROBERT MELVIN MILLER 1504 GRAVOIS ROAD HIGH RIDGE, MO 63049-2605
Defendant/Respondent: MARIANNE KLEMM, ET AL	Court Address: ST FRANCOIS COUNTY COURTHOUSE 1 N WASHINGTON FARMINGTON, MO 63640
Nature of Suit: CC Pcrs Injury-Malpractice	

(Date File Stamp)

Summons in Civil Case

The State of Missouri to: MARIANNE KLEMM

Alias:

GREAT MINES HEALTH CTR
530 N MIDDLE ST
FARMINGTON, MO 63640

ST. FRANCOIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

Date _____

Clerk _____

Further Information: _____

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

delivering a copy of the summons and a copy of the petition to the Defendant/Respondent,
 leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.
 (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____

(name) _____ (title) _____

 other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date _____

Notary Public _____

Sheriff's Fees

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary \$ _____

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$ _____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

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IN THE CIRCUIT COURT OF ST. FRANCOIS COUNTY,
AT FARMINGTON, MISSOURI DIVISION _____

LISA RAWSON,)
Desloge, Missouri)
and)
EVERETTE RAWSON,)
Desloge, Missouri)
Plaintiffs,)
v.)
MARIANNE KLEMM, D.O.,)
Serve at:)
Great Mines Health Center)
530 N. Middle Street)
Farmington, MO 63640)
and)
GREAT MINES HEALTH CENTER,)
Serve registered agent:)
Terry Heuring)
119 North Henry)
Farmington, MO 63640)
and)
DALECO, INC.)
Serve registered agent:)
C T Corporation System)
120 South Central)
Clayton, MO 63105)
and)
JOHN DOE)
a fictitious name, the real name being)
unknown to plaintiffs)
hold service)
Defendants.)

FILED

DEC 03 2010

VICKI J. WEIBLE, CIRCUIT CLERK
ST. FRANCOIS COUNTY, MO

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PETITION FOR PERSONAL INJURY

COUNT I
MEDICAL MALPRACTICE

COMES NOW plaintiff Lisa Rawson and for her cause of action states as follows:

1. Plaintiffs reside in St. Francois County, Missouri.
2. Defendant Marianne Klemm, D.O. is an osteopathic physician, licensed in the State of Missouri who practices medicinc in and resides in St. Francois County, Missouri.
3. Defendant Great Mines Health Center is a corporation authorized and existing under the laws of the State of Missouri which has an office for its usual and customary business located in St. Francois County, Missouri.
4. Defendant Marianne Klemm, D.O. at all times referred to herein was acting as an agent, servant and employee of defendant Great Mines Health Center.
5. Defendant Daleco, Inc. is a corporation authorized and existing under the laws of the State of Arkansas which does business as USA Drug in store number 7638 located at 1142 N. Desloge in the City of Desloge, County of St. Francois and State of Missouri.
6. Defendant John Doe is a fictitious name, the real name of said defendant being unknown to plaintiffs, and is a male or female pharmacist licensed in the State of Missouri who on and prior to December 8, 2008 was acting as agent, servant and employee of defendant Daleco, Inc. at the USA Drug store number 7638 located in Desloge, Missouri.
7. On July 24, 2006 plaintiff Lisa Rawson established a physician patient relationship with defendants Marianne Klemm, D.O. and Great Mines Hcalth Center which continued until December 9, 2009.
8. When plaintiff Lisa Rawson established her physician patient relationship with defendants Marianne Klemmin, D.O. and Great Mines Health Center on July 24, 2006 Lisa Rawson and notified said defendants of her allergy to sulfa drugs.

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Lisa Rawson was very likely allergic to Bactrim DS.

16. Defendant John Doe was negligent in his or her treatment of plaintiff Lisa Rawson on December 8, 2008 because John Doe failed to use that degree of skill and learning ordinarily used by pharmacists under the same or similar circumstances of filling prescriptions for medication for Lisa Rawson in that defendant John Doe knew or should have known that plaintiff Lisa Rawson was very likely allergic to Bactrim DS and defendant John Doe failed to advise defendant Marianne Klemm, D.O. and plaintiff Lisa Rawson that Lisa Rawson was very likely allergic to Bactrim DS before selling the medication Bactrim DS to plaintiff Lisa Rawson.

17. Such joint and several negligence of defendants directly caused or directly contributed to cause damage to plaintiff Lisa Rawson in that when Lisa Rawson ingested Bactrim DS Lisa Rawson suffered a severe allergic reaction to Bactrim DS and sustained the following injuries and damages:

- a. diffuse urticaria,
- b. allodynia,
- c. shooting pains in her legs radiating to her upper extremities,
- d. extreme sensitivity to touch, sweating in her hands and feet and lightheadedness,
- e. past medical expenses in a sum not exceeding \$150,000.00,
- f. future medical expense in a sum not yet determined,
- g. past lost wages and lost earning capacity in a sum not exceeding \$50,000.00,
- h. future lost wages and lost earning capacity,
- i. permanent total disability,
- j. past and future loss of capacity to enjoy life,
- k. future pain, suffering, inconvenience, physical impairment, disfigurement and mental anguish, and

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1. past pain, suffering, inconvenience, physical impairment, disfigurement and mental anguish.

WHEREFORE, plaintiff prays this court for judgment against each defendant, jointly and severally in such sum in excess of \$25,000.00 as will fairly and reasonably compensate her for her actual damages together with her costs of court expended herein.

**COUNT II
LOSS OF CONSORTIUM**

Comes now plaintiff Everette Rawson and for his cause of action, states as follows:

1. Plaintiff Everette Rawson is the spouse of plaintiff Lisa Rawson.
2. Plaintiffs reside in St. Francois County, Missouri.
3. Defendant Marianne Klemm, D.O. is an osteopathic physician, licensed in the State of Missouri who practices medicine in and resides in St. Francois County, Missouri.
4. Defendant Great Mines Health Center is a corporation authorized and existing under the laws of the State of Missouri which has an office for its usual and customary business located in St. Francois County, Missouri.
5. Defendant Marianne Klemm, D.O. at all times referred to herein was acting as an agent, servant and employee of defendant Great Mines Health Center.
6. Defendant Daleco, Inc. is a corporation authorized and existing under the laws of the State of Arkansas which does business as USA Drug in store number 7638 located at 1142 N. Desloge in the City of Desloge, County of St. Francois and State of Missouri.
7. Defendant John Doe is a fictitious name, the real name of said defendant being unknown to plaintiffs, and is a male or female pharmacist licensed in the State of Missouri who on and prior to December 8, 2008 was acting as agent, servant and employee of defendant Daleco, Inc. at the USA Drug store number 7638 located in Desloge, Missouri.
8. On July 24, 2006 plaintiff Lisa Rawson established a physician patient relationship

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with defendants Marianne Klemm, D.O. and Great Mines Health Center which continued until December 9, 2009.

9. When plaintiff Lisa Rawson established her physician patient relationship with defendants Marianne Klemm, D.O. and Great Mines Health Center on July 24, 2006 Lisa Rawson and notified defendants of her allergy to sulfa drugs.

10. On December 8, 2008, plaintiff Lisa Rawson sought treatment from defendants Marianne Klemm, D.O. and Great Mines Health Center in St. Francois County, Missouri for complaints of back pain and neck pain.

11. On December 8, 2008, defendant Marianne Klemm, D.O. assessed that plaintiff Lisa Rawson suffered from cervical somatic dysfunction, lumbar somatic dysfunction and sinus congestion.

12. On December 8, 2008, defendant Marianne Klemm, D.O. treated plaintiff Lisa Rawson's conditions of cervical somatic dysfunction, lumbar somatic dysfunction and sinus congestion by prescribing medications of Bactrim DS one p.o. b.i.d., #30, refil x1 and Norco 10.325 one p.o. Q6 hour PRN pain, #120, refil x1.

13. On December 8, 2008, plaintiff Lisa Rawson requested defendants Daleco, Inc., d/b/a USA Drug and John Doe to fill the prescriptions of defendant Marianne Klemm, D.O. for Bactrim DS and Norco given to plaintiff Lisa Rawson.

14. On December 8, 2008, defendants Daleco, Inc., d/b/a USA Drug and John Doe filled the prescriptions of defendant Marianne Klemm, D.O. for Bactrim DS and Norco and sold said medications to plaintiff Lisa Rawson.

15. Bactrim DS is a sulfonamide drug and is the type of drug that plaintiff Lisa Rawson notified defendants she was allergic to.

16. Defendant Marianne Klemm, D.O. was negligent in her treatment of plaintiff Lisa

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Rawson on December 8, 2008 because Marianne Klemm, D.O. failed to use that degree of skill and learning ordinarily used by osteopathic physicians under the same or similar circumstances of treating the medical conditions of Lisa Rawson present on December 8, 2008 in that defendant Marianne Klemm, D.O. prescribed Bactrim DS, a sulfonamide drug for plaintiff Lisa Rawson's consumption when defendant Marianne Klemm, D.O. knew or should have known that plaintiff Lisa Rawson was very likely allergic to Bactrim DS.

17. Defendant John Doe was negligent in his or her treatment of plaintiff Lisa Rawson on December 8, 2008 because John Doe failed to use that degree of skill and learning ordinarily used by pharmacists under the same or similar circumstances of filling prescriptions for medication for Lisa Rawson in that defendant John Doe knew or should have known that plaintiff Lisa Rawson was very likely allergic to Bactrim DS and defendant John Doe failed to advise defendant Marianne Klemm, D.O. and plaintiff Lisa Rawson that Lisa Rawson was very likely allergic to Bactrim DS before selling the medication Bactrim DS to plaintiff Lisa Rawson.

18. Such joint and several negligence of defendants directly caused or directly contributed to cause damage to plaintiff Lisa Rawson in that when Lisa Rawson ingested Bactrim DS Lisa Rawson suffered a severe allergic reaction to Bactrim DS and sustained the following injuries and damages:

- a. diffuse urticaria,
- b. allodynia,
- c. shooting pains in her legs radiating to her upper extremities,
- d. extreme sensitivity to touch, sweating in her hands and feet and lightheadedness,
- e. past medical expenses in a sum not exceeding \$150,000.00,
- f. future medical expense in a sum not yet determined,
- g. past lost wages and lost earning capacity in a sum not exceeding \$50,000.00,

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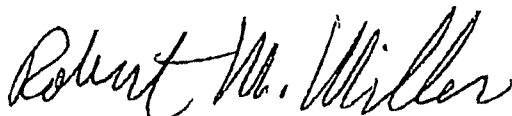
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- h. future lost wages and lost earning capacity,
- i. permanent total disability,
- j. past and future loss of capacity to enjoy life,
- k. future pain, suffering, inconvenience, physical impairment, disfigurement and mental anguish, and
- l. past pain, suffering, inconvenience, physical impairment, disfigurement and mental anguish.

19. That as a direct result of the joint and several negligence of defendants, plaintiff Everette Rawson has lost the services, consortium, companionship, comfort, instruction, guidance, counsel, and training and support of plaintiff Lisa Rawson and has thereby been damaged.

WHEREFORE, plaintiff Everette Rawson prays this court for judgment against each defendant, jointly and severally, in such sum in excess of \$25,000.00 as will fairly and reasonably compensate him for his actual damages together with his costs of court expended herein.

WILLIAM M. WUNDERLICH & ASSOC.



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